

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA - ATLANTA DIVISION**

IN RE:	*	CASE NO.: 13-70950-JRS
	*	
Barry Stephen Waters,	*	
and	*	CHAPTER: 7
Mary Harrison Waters,	*	
AKA Mary Aileen Harrison,	*	
Debtors	*	
	*	
Barry Stephen Waters,	*	
Mary Harrison Waters,	*	
AKA Mary Aileen Harrison,	*	
MOVANTS,	*	
VS.	*	
HSBC Bank Nevada, N.A.	*	Civil Action File No.
	*	08C14194-5
<u>RESPONDENT.</u>	*	

MOTION TO AVOID JUDICIAL LIEN

COME NOW Debtors, **Barry Stephen Waters** and **Mary Harrison Waters**, and through counsel move for an order avoiding a lien held by Respondent pursuant to 11 U.S.C. Section 522(f) and allege the following:

1.

Respondent obtained a judgment against the Debtors on or about 2008 in the State Court of Gwinnett County, and the amount of that judgment lien on the petition date was \$2,137.00.

2.

Pursuant to 11 U.S.C. Section 522 and O.C.G.A. 44-13-100, Debtors properly claimed as exempt on Schedule C, including all allowed amendments to schedule C, the following property:

B6C (Official Form 6C) (4/13)

In re **Barry Stephen Waters,
Mary Harrison Waters**Case No. **13-70950**

Debtors

SCHEDULE C - PROPERTY CLAIMED AS EXEMPTDebtor claims the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds
 \$155,675. (Amount subject to adjustment on 4/1/16, and every three years thereafter
 with respect to cases commenced on or after the date of adjustment.)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
Location: 955 Harbins View Drive, Dacula GA 30019 Gwinnett County	O.C.G.A. § 44-13-100(a)(1)	5,557.00	103,500.00
Cash on Hand			
Cash	O.C.G.A. § 44-13-100(a)(6)	0.00	0.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Peach State Credit Union Checking	O.C.G.A. § 44-13-100(a)(6)	200.00	200.00
Peach State Savings	O.C.G.A. § 44-13-100(a)(6)	25.00	25.00
Household Goods and Furnishings			
2br,lr,dr,all kitchen appliances, w/d, 2tvs,2 dvd players, 1 computer,2 cameras	O.C.G.A. § 44-13-100(a)(4)	4,000.00	4,000.00
Wearing Apparel			
clothes	O.C.G.A. § 44-13-100(a)(4)	200.00	200.00
Firearms and Sports, Photographic and Other Hobby Equipment			
shotgun	O.C.G.A. § 44-13-100(a)(6)	50.00	50.00
Automobiles, Trucks, Trailers, and Other Vehicles			
2004 Toyota Camry	O.C.G.A. § 44-13-100(a)(3)	3,000.00	3,000.00
1999 Nissan Truck	O.C.G.A. § 44-13-100(a)(3)	2,000.00	2,000.00
Animals			
1 dog	O.C.G.A. § 44-13-100(a)(4)	30.00	30.00

Total: **15,062.00** **113,005.00**

0 continuation sheets attached to Schedule of Property Claimed as Exempt

3.

The value of each claimed exemption in the above property, as shown on Schedule C, is equal to or greater than the market value of that property, as accurately reflected on Schedules A and B, except the residence which has a value of \$103,500.00 and is subject to a purchase money lien of \$97,943.00, leaving \$5,557.00 in equity, an amount equal to or less than the claimed exemption.

4.

Debtors also own a 2004 Toyota Camry automobile, which has a value of \$3,000.00, an amount equal to or less than the claimed exemption. Debtors also own a 1999 Nissan Truck automobile, which has a value of \$2,000.00, and is subject to a title pawn in the amount \$5,950.00, leaving \$0.00 in equity, an amount equal to or less than the claimed exemption. Debtors are not attempting to avoid Respondent's lien against the vehicle because debtors assert that, under Georgia Law, Respondent's F.I.F.A. does not attach to the vehicle – an issue which properly will be decided through the claims allowance process.

WHEREFORE, Debtors are entitled to entry of an Order avoiding Respondent's lien against the exempt property, as set forth above.

Respectfully submitted
CLARK & WASHINGTON, LLC

/s/_____
Ankur Trivedi, GA Bar No. 859811
Attorneys for Debtors

CLARK & WASHINGTON, LLC
3300 Northeast Expressway
Building 3
Atlanta, GA 30341
(404) 522-2222

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* CHAPTER: **7**

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Civil Action File No.

**NOTICE OF REQUIREMENT OF RESPONSE TO MOTION TO
AVOID JUDICIAL LIEN ON EXEMPT PROPERTY AND OF TIME TO FILE SAME**

NOTICE IS HEREBY GIVEN that a Motion to avoid a judicial lien on exempt property pursuant to 11 U.S.C. Section 522 has been filed in the above-styled case on 11/11/13.

NOTICE IS FURTHER GIVEN that, pursuant to BLR 6008-2 NDGA, the Respondent must file a response to the Motion within 21 days after service, exclusive of the day of service, and serve a copy of same on Movants. In the event no response is timely filed and served, then the Bankruptcy Court may enter an order granting the relief sought.

Respectfully submitted
CLARK & WASHINGTON, LLC

/s/_____
Ankur Trivedi, GA Bar No. 859811
Attorneys for Debtors

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3300 Northeast Expressway
Building 3
Atlanta, GA 30341
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* CASE NO.: **13-70950-JRS**

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CERTIFICATE OF SERVICE

I certify that I have this date served the following parties with a copy of the within "Notice Of Requirement Of Response To Motion To Avoid Judicial Lien On Exempt Property And Of Time To File Same" and "Motion To Avoid Judicial Lien" by placing true copies of same in the United States Mail with adequate postage affixed to insure delivery, addressed to:

Tamara Miles Ogier
Chapter 7 Trustee
170 Mitchell St, SW
Atlanta, GA 30303

Barry & Mary Waters
955 Harbins View Drive
Dacula, GA 30019

Hsbc Bank
Po Box 5253
Carol Stream, IL 60197

Served by Certified Mail
#70111150000048788751
HSBC Bank Nevada, N.A.
Bradbury H. Anderson, CEO
7601 Penn Avenue S
Richfield, MN 55423

Dated: 11/11/13

/s/_____
Ankur Trivedi, GA Bar No. 859811
Attorneys for Debtors

CLARK & WASHINGTON, LLC
3300 Northeast Expressway
Building 3
Atlanta, GA 30341
(404) 522-2222